



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

TEXAS HEALTH SOUTHWEST

**Respondent Name**

FORT WORTH ISD

**MFDR Tracking Number**

M4-18-0331-01

**Carrier's Austin Representative**

Box Number 16

**MFDR Date Received**

October 10, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "bill was submitted 11/18/2016 less than 95 days after date of service."

**Amount in Dispute:** \$661.93

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "per 28 Texas Administrative Code §102.4(h), acceptable proof of timely filing was not submitted and in accordance with Tex. Lab. Code Ann. §408.027, the health care provider and requestor in this medical fee dispute has forfeited the right to reimbursement . . ."

**Response Submitted by:** Injury Management Organization, Inc.

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Dispute Amount	Amount Due
October 5, 2016 to October 26, 2016	Outpatient Hospital Occupational Therapy Services	\$661.93	\$452.54

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
1. 28 Texas Administrative Code §102.3 sets rules for computation of due dates and time periods.
2. 28 Texas Administrative Code §134.403 sets out the acute care hospital fee guideline for outpatient services.
3. 28 Texas Administrative Code §134.203 sets out the fee guideline for professional medical services.
4. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
5. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical claim.

6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 29 – The time limit for filing has expired
  - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - SCREEN SHOTS NOT EXCEPTED. ACKNOWLEDGEMENT/RREJECTED FOR INVALID INFORMATION. [sic] REFERENCE DCN 3047189

### **Issues**

1. Did the requestor forfeit the right to reimbursement for the services in dispute?
2. Is the requestor entitled to additional payment?

### **Findings**

1. The insurance carrier denied disputed services with adjustment code: 29 – “The time limit for filing has expired,” with additional payment advice: “SCREEN SHOTS NOT EXCEPTED. ACKNOWLEDGEMENT/RREJECTED FOR INVALID INFORMATION. REFERENCE DCN 3047189.” [sic]

28 Texas Administrative Code §133.20(b) requires that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.”

Texas Labor Code §408.027(a) states that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.”

Texas Labor Code §408.0272(b) provides that, notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

- (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:
  - (A) an insurer that issues a policy of group accident and health insurance . . .
  - (B) a health maintenance organization that issues an evidence of coverage . . .
  - (C) a workers' compensation insurance carrier other than the insurance carrier liable . . .
- (2) the commissioner determines that the failure resulted from a catastrophic event . . .

Texas Labor Code §408.0272(c) further requires that, notwithstanding §408.0272(b), a provider who erroneously submits a claim for payment to an entity described above:

forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim.

Review of the submitted information finds documentation to support the health care provider billed Tristar Risk Management on November 18, 2016. This is within 95 days of the original date of service.

The respondent's position statement argues that “acceptable proof of timely filing was not submitted” and states in the explanations of benefits (EOB) that “SCREEN SHOTS NOT EXCEPTED.” This argument is not supported. Labor Code §408.0272(b)(1) requires that the provider submit proof satisfactory to the commissioner of erroneous filing with one of the enumerated entities.

Review of the submitted documentation finds the computer screen printout is satisfactory proof of timely filing with one of the listed entities. Specifically, the requestor demonstrated having filed the bill within the allotted time limit to a workers' compensation carrier (Tristar Risk Management) other than the carrier liable for payment (Fort Worth ISD). This is sufficient to meet the requirements of Labor Code §408.0272(b)(1)(C).

Having met that exception, Labor Code §408.0272(c) further required the provider to submit the bill to the correct workers' compensation carrier within 95 days following the date the provider was notified of the provider's erroneous submission.

The submitted documentation supports the provider received an electronic claim rejection on November 22, 2016. The 95<sup>th</sup> day following receipt of that claim rejection notice was Saturday, February 25, 2017—which was not a working day. 28 Texas Administrative Code §102.3(a)(3) requires that in computing due dates and time periods under the Texas Workers' Compensation Act, "unless otherwise specified, if the last day of any period is not a working day, the period is extended to include the next day that is a working day." The next working day was Monday, February 27, 2017.

Review of the EOB from the correct carrier's medical bill review company, Injury Management Organization, Inc. (IMO), finds the audit review date listed as February 14, 2017. The audit date on the EOB supports that the carrier received the bill well within 95 days from the date of the provider's notification of claim rejection from the erroneous carrier on November 22<sup>nd</sup>. The provider has thus met the timely filing requirement in Labor Code §408.0272(c) for submitting the bill to the correct carrier.

Accordingly, the division concludes the provider has *not* forfeited the right to reimbursement, having met the requirements for an exception under Labor Code §§ 408.0272(b)(1)(C) and 408.0272(c), and Rule §133.20(b).

Upon review of the timely medical bill, the insurance carrier denied the bill for untimely filing, and subsequently maintained that decision upon reconsideration. The insurance carrier's denial reasons are not supported. The bill will therefore be reviewed for reimbursement according to applicable division rules and fee guidelines.

2. This dispute regards outpatient hospital facility services with payment subject to 28 Texas Administrative Code §134.403, which requires the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount (including outlier payments) applying the effective Medicare Outpatient Prospective Payment System (OPPS) formula and factors, published annually in the Federal Register, with modifications as set forth in the rule. Medicare OPPS formulas and factors are available from <http://www.cms.gov>.

The billed occupational therapy services have Medicare payment status indicators of A, denoting services paid by Physician Fee Schedule—instead of OPPS. If Medicare pays using other systems than OPPS, Rule §134.403(h) requires use of the DWC fee guideline applicable to that service on the date provided. These services are paid according to the division's *Medical Fee Guideline for Professional Services*, Rule §134.203(c).

Per Medicare payment policy, when more than one unit of designated therapy services is billed on the same day, the first unit of the procedure with the highest practice expense is paid in full. Payment for the practice expense of each subsequent unit is reduced by 50%.

- Per Medicare policy, CPT code 97010, October 26, 2016, represents an item for which reimbursement is bundled into payment for other services billed the same day. Separate payment is not recommended.
- For CPT code 97022, October 11, 2016, the relative value (RVU) for work of 0.17 multiplied by the geographic practice cost index (GPCI) for work of 1.005 is 0.17085. The practice expense (PE) RVU of 0.48 multiplied by the PE GPCI of 0.995 is 0.4776. The malpractice RVU of 0.01 multiplied by the malpractice GPCI of 0.772 is 0.00772. The sum of 0.65617 is multiplied by the division conversion factor of \$56.82 for a MAR of \$37.28. This code has the highest PE for this date. The first unit is paid at \$37.28.
- For CPT code 97110, October 5, 2016, the Work RVU of 0.45 multiplied by the work GPCI of 1.005 is 0.45225. The PE RVU of 0.44 multiplied by the PE GPCI of 0.995 is 0.4378. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.772 is 0.01544. The sum of 0.90549 is multiplied by the division conversion factor of \$56.82 for a MAR of \$51.45. This code does not have the highest PE for this date. The PE reduced rate is \$39.01.
- For CPT code 97110, October 11, 2016, the Work RVU of 0.45 multiplied by the work GPCI of 1.005 is 0.45225. The PE RVU of 0.44 multiplied by the PE GPCI of 0.995 is 0.4378. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.772 is 0.01544. The sum of 0.90549 is multiplied by the division conversion factor of \$56.82 for a MAR of \$51.45. This code does not have the highest PE for this date. The PE reduced rate is \$39.01 at 2 units is \$78.02.
- For CPT code 97110, October 26, 2016, the Work RVU of 0.45 multiplied by the work GPCI of 1.005 is 0.45225. The PE RVU of 0.44 multiplied by the PE GPCI of 0.995 is 0.4378. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.772 is 0.01544. The sum of 0.90549 is multiplied by the division conversion factor of \$56.82 for a MAR of \$51.45. This code has the highest PE for this date. The first unit is paid at \$51.45. The PE reduced rate is \$39.01. The total is \$90.46.

- For CPT code 97140, October 11, 2016, the Work RVU of 0.43 multiplied by the work GPCI of 1.005 is 0.43215. The PE RVU of 0.4 multiplied by the PE GPCI of 0.995 is 0.398. The malpractice RVU of 0.01 multiplied by the malpractice GPCI of 0.772 is 0.00772. The sum of 0.83787 is multiplied by the division conversion factor of \$56.82 for a MAR of \$47.61. This code does not have the highest PE for this date. The PE reduced rate is \$36.30.
- For CPT code 97140, October 26, 2016, the Work RVU of 0.43 multiplied by the work GPCI of 1.005 is 0.43215. The PE RVU of 0.4 multiplied by the PE GPCI of 0.995 is 0.398. The malpractice RVU of 0.01 multiplied by the malpractice GPCI of 0.772 is 0.00772. The sum of 0.83787 is multiplied by the division conversion factor of \$56.82 for a MAR of \$47.61. This code does not have the highest PE for this date. The PE reduced rate is \$36.30.
- CPT code G8984, October 5, 2016, has status indicator Q, denoting a functional information code (for reporting purposes only). No separate payment is made.
- CPT code G8985, October 5, 2016, has status indicator Q, denoting a functional information code (for reporting purposes only). No separate payment is made.
- For CPT code 97003, October 5, 2016, the Work RVU of 1.2 multiplied by the work GPCI of 1.005 is 1.206. The PE RVU of 1.14 multiplied by the PE GPCI of 0.995 is 1.1343. The malpractice RVU of 0.05 multiplied by the malpractice GPCI of 0.772 is 0.0386. The sum of 2.3789 is multiplied by the division conversion factor of \$56.82 for a MAR of \$135.17. This code has the highest PE for this date. The first unit is paid at \$135.17.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$452.54.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$452.54, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

### **Authorized Signature**

	Grayson Richardson	November 1, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form DWC045M) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.